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C O N F I D E N T I A L SECTION 01 OF 03 TEGUCIGALPA 001057

SIPDIS

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TAGS: PGOV PREL KDEM HO

SUBJECT: TFH01: GUAYMURAS UPDATE

REF: A. TEGUCIGALPA 1049

1B. TEGUCIGALPA 1048

1C. TEGUCIGALPA 939

Classified By: Ambassador Hugo Llorens for reasons 1.4 (b/d)

11. (C) Summary. There is agreement on all provisions of the Guaymuras Accord, except for the restoration of President Jose Manuel "Mel" Zelaya. The Zelaya commission to the negotiations tabled a proposal on October 16 providing that the agreement would be sent to the Congress for approval, but would also instruct the legislature to consult and seek guidance from the Supreme Court and other pertinent institutions on this issue. The Micheletti commission is expected to respond to this proposal on October 19. Liberal Party presidential candidate Elvin Santos told the Ambassador that, as the Ambassador had suggested, he had urged de facto regime leader Roberto Micheletti to accept the Guaymuras Accord. Santos said he would continue to advocate for the agreement. Santos alleged that the National Party is working to scuttle an agreement because it believes it would damage its electoral prospects. National Party candidate Porfirio "Pepe" Lobo told the Ambassador that he wanted to be helpful, but expressed concern about rumors of manipulation of Congress by President Zelaya. Lobo said the National Party is developing a strategy on how to deal with the Guaymuras Accord if it were submitted to the National Congress. Supreme Court Justice David Calix Vallecillo told Poloff that he will make a statement to the full Supreme Court that the provision of the Guaymuras Accord regarding restitution of President Zelaya should not be sent to the Supreme Court for review since it is a political, rather than a legal, issue. End Summary.

So Near Yet So Far

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12. (SBU) There is agreement on all provisions of the draft Guaymuras Accord, which has replaced the San Jose Accord, with the exception of the thorniest issue, the restitution of President Jose Manuel "Mel" Zelaya to office. On October 15, the commissions representing President Zelaya and de facto regime leader Roberto Micheletti at the negotiations agreed to draft language regarding this issue, giving the National Congress the authority and responsibility of approving and establishing the mechanisms for restoration of the constitutional order and Zelaya's presidency. Fearful that the political ground was shifting under him, evidenced by a congressional resolution approved on October 15 supportive of a negotiated agreement, Micheletti, under pressure from his inner circle and far right civil society supporters, sent de

facto regime Vice Foreign Minister Marta Lorena Alvarado to the negotiations on October 16 to reject the draft agreement and table a completely new draft of the article regarding restitution. The new proposal included language that the events of June 28 constituted a succession and transfer of power in keeping with the Honduran Constitution. The Zelaya commission angrily rejected this proposal, noting that the Supreme Court already issued an opinion on the question of President Zelaya's restitution in an analysis of the San Jose Accord. Zelaya's commissioners left the negotiations and went to consult with President Zelaya at the Brazilian Embassy. Minister of Governance and Justice Victor Meza, who is the lead negotiator for Zelaya, told Organization of American States (OAS) Special Envoy John Biehl that Micheletti's proposal was an attempt to scuttle the talks and predicted that President Zelaya would publicly declare that Micheletti was not negotiating in good faith and that the talks had broken down. However, in a subsequent telephone call, the Ambassador persuaded President Zelaya not to close the door on the negotiations. (See Reftel B)

¶13. (SBU) President Zelaya instructed his negotiating team to come up with a compromise text that would again provide that the agreement would be sent to the Congress for approval, but would also instruct the legislature to consult and seek guidance from the Supreme Court and other pertinent institutions regarding the restoration issue. The Zelaya commission returned to the negotiations on October 16 and tabled this counterproposal. We understand that Micheletti's negotiators said it was a serious and well crafted offer and that they would review it and seek acceptance of it from Micheletti and his inner circle.

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¶14. (SBU) The Micheletti commission asked the OAS to provide a suite at the hotel where the negotiations are being held in order to hold meetings October 17-18 with the relevant sectors of society away from the highly politicized atmosphere of the Presidential Palace. We understand that this attempt at privacy failed because the de facto regime dispatched troops to provide security at the hotel and turned it into somewhat of an armed camp. There is obviously much political maneuvering going on. The pro-Micheletti rumor mill has been propagating the story that Zelaya supports approval of the agreement by Congress because he has offered payoffs, allegedly financed by Venezuelan President Hugo Chavez, to the legislators. Zelaya supporters are convinced that the Micheletti team is using stalling tactics until the military is, according to Honduran law, seconded to the Supreme Electoral Tribunal (TSE) on October 28.

#### The Candidates on Guaymuras

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¶15. (SBU) The Ambassador spoke, in separate meetings on October 18, with Liberal Party presidential candidate Elvin Santos and National Party candidate Porfirio "Pepe" Lobo. Santos said that, in response to the Ambassador's urging, he had spoken to Micheletti and urged him to support Guaymuras (See Reftel A). Santos told the Ambassador that he found Micheletti calm and seemingly supportive of a deal. Santos said he would continue to advocate for an agreement including with Jose Alfredo Saavedra, who replaced Micheletti as President of Congress after the coup and who has great influence on Micheletti. Santos claimed the Nationalist Party is working to scuttle an agreement because it believes a resolution to the crisis will restore harmony to the Liberal Party and damage the electoral prospects of the National Party candidates.

¶16. (SBU) The Ambassador told Lobo that signature of the Guaymuras Accord and its expeditious ratification is in the best interest of Honduras. The Ambassador said an agreement would promote reconciliation, create a peaceful climate for the holding of elections, restore Honduras' place in the

international community, and allow for strong international support for the election. Lobo said he wanted to be helpful, but expressed concern about rumors of manipulation of the Congress by President Zelaya. Lobo recalled allegations that money circulated in Congress during the successful September 2008 campaign by Zelaya and Micheletti to obtain legislative approval of the ALBA treaty. Lobo agreed that a solution to the country's political crisis is necessary and said that he and other National Party leaders were developing a strategy on how to deal with the Guaymuras Accord if it were submitted to the National Congress.

The Supreme Court's Role

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¶7. (C) Poloff spoke on October 19 with Supreme Court magistrate David Calix Valleciello, at his request (See Reftel C). Calix said he plans to make a statement to the other Supreme Court magistrates that the provision of the Guaymuras Accord regarding restitution of President Zelaya should not be sent to the Supreme Court for review since it is a political, rather than a legal, issue. Calix told Poloff that if the Guaymuras Accord were submitted to the Supreme Court for review, it would languish for weeks. He said he views Micheletti's proposal that the Supreme Court review the agreement as yet another stalling tactic. Calix said that if the Guaymuras Agreement provided for its review by the Supreme Court, the Court would decide whether to study the agreement or to declare that they lacked competence to do so.

¶8. (U) Note: In a decision on the San Jose Accord issued in August 2009, on the issue of the restitution of President Zelaya to office, the Supreme Court merely noted there are pending criminal charges against Zelaya which he would have to face. End Note.

¶9. (C) Comment: The negotiations have reached a crucial point. If the two sides cannot reach agreement this week, we expect that President Zelaya will pull out of negotiations and announce their failure. However, the fact that agreement on Guaymuras has been achieved, with the exception of the

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point regarding Zelaya's restoration, is important. If pressure on Micheletti were to render him more open to reaching an agreement before the January 27, 2010 inauguration of the president elected on November 29, Guaymuras could be pulled out and negotiations resumed just on the point regarding restoration, thereby opening the way for a return to constitutional order in Honduras. End Comment.

LLORENS